

REMARKS**Claims Rejections****35 U.S.C. 102(b) Rejection**

The Examiner has rejected claims 1-6, 8/5 and 8/6 as lacking novelty and therefore as unpatentable over U.S. Patent No. 2,041,382 issued to Strong.

In particular, the Examiner takes the position that Strong shows a railroad switch having a structure 26 that is readable as a lost motion basket housing having all the features as recited in the instant claims, including a through opening in the housing for receiving bar or rod 17, while internally of structure 26 there are means for securing and limiting lateral displacement of rod 17; a bore in head portion 38 for receiving pivot pin 39; and torsion arm 20 pivotally mounted on pivot pin 39.

Reconsideration of the rejections is respectfully solicited.

It is submitted that the clevis 25 and ears 38 (interpreted by the examiner as "head portion 38") described and illustrated in Strong is not equivalent to the "means for rotatably retaining an arm" claimed in claim 1 of the instant application. Strong discloses a resilient safety means connecting a switch machine to switch rods, with an essentially direct translation between the throw of the switch machine and movement of the switch rods. In contrast, the housing of the instant application contains means to translate lateral motion of the switch machine into rotational or torsional motion of the assist rods to the heel and front end switch rods of the switch. This is claimed in claim 1 as "means to rotatably retain an arm associated with the housing", and in claim 5 as "a bore receiving a pin for rotation". The invention as claimed therefore performs a function that the invention disclosed by Strong does not.

This function is evident on closer examination of the rotational retention of the associated arm. In the present application, the means through which the associated arm is rotatably retained is through pin 120. As described at page 7, lines 25 – 30 of the application as filed, and best shown in Fig. 4, the rotation of the pin 120 is about an axis of rotation perpendicular to the longitudinal axis of the rod 102, and does not intersect the longitudinal axis of the rod 102. In contrast, the direct translation of the switch machine throw in Strong is shown by reference to Fig. 3, where it is evident that any arm connected by pin 39 through the bore in ears 38 is restricted strictly to a pivoting motion about an axis of rotation through pin 39. Since pin 39 must be located through ears 38, the axis of rotation of pin 39 must intersect the longitudinal axis of threaded rod 17. There is no other rotational movement of the arm connected at 38. It is therefore submitted that Strong does not disclose “means for rotatably retaining an arm associated with said housing” as claimed in claim 1 of the present application.

In order to more specifically define the invention and distinguish it from that disclosed by Strong, claim 1 has been amended to specify that the “means for rotatably retaining an arm” has “an axis of rotation; wherein said axis of rotation does not intersect said longitudinal axis.” It is submitted that Strong does not teach any means to allow rotation about an axis offset from the axis of the opening in the housing, and that the claim as amended is therefore novel and patentable.

Claim 5 has likewise been amended to specify that the bore has an axis that is transverse to “and does not intersect” the opening axis. It is submitted that Strong does not teach any means to allow rotation about an axis which does not intersect the axis of the opening in the housing, and that the claim as amended is therefore novel and patentable.

Thus, the Applicant respectfully submits that the claims as amended sufficiently distinguish the claimed invention from that taught in Strong. Because Claims 2-4 and 6-9 are dependent on Claims 1 and 5, respectively, the Applicant respectfully submits that these dependent claims are also allowable over Strong.

35 U.S.C. 103(a) Rejection

The Examiner has also rejected claims 7, 8/7 and 9 as obvious and therefore unpatentable over U.S. Patent No. 2,041,382 issued to Strong, in view of U.S. Patent No. 956,834 issued to Strom.

In particular, the Examiner takes the position that Strong, being applied as above, does not clearly show structural detail of a switch stand, but Strom does do so, and that, in view of Strom it would have been obvious to one skilled in the art to construct a switch stand as disclosed by Strom for use in the structure disclosed by Strong. The Examiner takes the position that torsion arm 14 of Strom is rigidly secured to rod 13, and that rod 13 is readable as an assist rod. The Examiner also takes the position that the free end of torsion arm 14 of Strom is thickened, such that the slot in that thickened area of the free arm is readable as an elongated slot.

Reconsideration of the rejections is respectfully solicited.

The arguments above as to the applicability of Strong to independent claim 5, and therefore to 7, 8/7 and 9, are hereby reiterated.

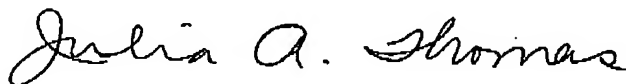
It is further submitted that rod 13 of Strom is in fact not readable as an assist rod. Rod 13 is clearly defined and illustrated as a target rod, which extends vertically up from the switch, and simply supports and rotates the target, the indicator of switch position. As a target rod does not perform the same or similar function as an assist rod, the physical requirements of the two types of rods are different, and it would therefore not be obvious to the person skilled in the art to apply the target rod 13 of Strom in the same manner as an assist rod. A target rod is not required to withstand the same stresses or forces due to passing trains as an assist rod. As stated in the present application, "assist rods act to transfer force from the front end switch rods to those at the rear end.

...The assist rod extends along the outside of the running rail [horizontally rather than vertically as shown in Strom]...." The two rods are located in completely different positions in a railroad switch and do not perform similar functions. It would therefore not be obvious to the person skilled in the art to simply apply the switch stand disclosed by Strom to the railroad switch disclosed by Strong so as to achieve the railroad switch of the present application.

Conclusion

The Applicant submits that the claims are in condition for allowance and respectfully requests that a Notice of Allowance be issued in this case.

Respectfully submitted,



Julia A. Thomas
Reg. No. 52,283

Customer No.: 22,862